# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

Jeffrey Paino,

Plaintiff,

V.

ProCollect, Inc.,

Defendant.

Civil Action No.: 3:14-cv-2554

COMPLAINT

For this Complaint, Plaintiff, Jeffrey Paino, by undersigned counsel, states as follows:

## **JURISDICTION**

- 1. This action arises out of Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (the "FDCPA"), in its illegal efforts to collect a consumer debt.
- 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

### **PARTIES**

- 3. Plaintiff, Jeffrey Paino ("Plaintiff"), is an adult individual residing in Grand Prairie, Texas, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).
- 4. Defendant ProCollect, Inc. ("ProCollect"), is a Texas business entity with an address of 12170 North Abrams Road, Suite 100, Dallas, Texas 75243, operating as a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).

#### ALLEGATIONS APPLICABLE TO ALL COUNTS

#### A. The Debt

- 5. Plaintiff allegedly incurred a financial obligation (the "Debt") to an original creditor (the "Creditor").
- 6. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes, which meets the definition of a "debt" under 15 U.S.C. § 1692a(5).
- 7. The Debt was purchased, assigned or transferred to ProCollect for collection, or ProCollect was employed by the Creditor to collect the Debt.
- 8. ProCollect attempted to collect the Debt and, as such, engaged in "communications" as defined in 15 U.S.C. § 1692a(2).

## B. **ProCollect Engages in Harassment and Abusive Tactics**

- 9. In October 2013, ProCollect began contacting Plaintiff in an attempt to collect the Debt.
- 10. On or about January 28, 2014, ProCollect called Plaintiff's father and left a voicemail message. The message disclosed that the call was from ProCollect and stated that Plaintiff's father was being contacted because Plaintiff listed him as a "personal reference".
- 11. Upon information and belief, Plaintiff did not list his father as a reference at the time the Debt was incurred.
- 12. In addition, the message to Plaintiff's father requested that he "please relay a message" to Plaintiff.

## C. Plaintiff Suffered Actual Damages

13. Plaintiff has suffered and continues to suffer actual damages as a result of Defendant's unlawful conduct.

14. As a direct consequence of Defendant's acts, practices and conduct, Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

## <u>COUNT I</u> <u>VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.</u>

- 15. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 16. Defendant's conduct violated 1692b in that Defendant called a third party for a purpose other than to confirm or correct location information.
- 17. Defendant's conduct violated 1692b(1) in that Defendant disclosed the name of the collection agency to a third party without being asked to do so.
- 18. Defendant's conduct violated 15 U.S.C. § 1692d in that Defendant engaged in behavior the natural consequence of which was to harass, oppress, or abuse Plaintiff in connection with collection of the Debt.
- 19. Defendant's conduct violated 15 U.S.C. § 1692e in that Defendant used false, deceptive and/or misleading representations or means in connection with collection of the Debt.
- 20. Defendant's conduct violated 15 U.S.C. § 1692e(10) in that Defendant employed false and deceptive means to collect the Debt.
- 21. Defendant's conduct violated 15 U.S.C. § 1692f in that Defendant used unfair and unconscionable means to collect the Debt.
- 22. The foregoing acts and omissions of Defendant constitute numerous and multiple violations of the FDCPA.
  - 23. Plaintiff is entitled to damages as a result of Defendant's violations.

### PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff prays that judgment be entered against Defendant:

- 1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- 2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- 3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.§ 1692k(a)(3);
- 4. Punitive damages; and
- 5. Such other and further relief as may be just and proper.

#### TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: July 16, 2014

Respectfully submitted,

By /s/ Jenny DeFrancisco

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